652

## APPENDIX IV

(1)

GOVERNMENT OF INDIA

*MINISTRY OF LABOUR*

*New Delhi, the 3rd December 1949*

### NOTIFICATION

*No. LR. 2 (245).*—In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Goverment is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely :—

*Industrial Tribunal (Procedure) Rules.*

1. These rules may be called the Industrial Tribunal (Procedure) Rules 1949.
2. The Industrial Tribunal constituted under the Ministry of Labour Notification No. LR. 2 (205), dated the 13th June 1949, may entrust such cases or matters referred to as it deems fit to one or more members for enquiry and report.
3. The report under rule 2 shall be submitted to the Chairman of the Tribunal. The Tribunal may withdraw any case or matter referred to one or more members under rule 2 and transfer the same to any other member or members.
4. The Tribunal shall, after considering the report and making such further enquiry as it deems fit, deliver its award.
5. For the purpose of making an inquiry under these rules, the member or members, as the case may be, shall have all the powers of the Tribunal under section 11 and the provisions of rules 14 to 21, 24, 30 and 31 shall apply to such enquiry as if the member or members were the Tribunal.

K. N. SUBRAMANIAN,
*Joint Secretary to the Government of India.*

(Vide *Gazette of India*, Extraordinary, dated December 3rd, 1949, p. 2633).

(2)

GOVERNMENT OF INDIA

*MINISTRY OF LABOUR*

*New Delhi, the 6th March 1950*

### NOTIFICATION

*No. LR. 1 (108).*—In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (XIV of 1947) the Central Government is pleased

to direct that the following further amendment shall be made in the Industrial Dispute (Central) Rules, 1947, the same having been previously published as required by sub-section (1) of the said section, namely :—

*Amendment.*

After Rule 21, the following rule shall be inserted, namely :—

"21-A. *Power of Tribunals to award costs.*—The costs of, and incidental to, any proceeding before a Tribunal shall be in the discretion of that Tribunal, and the Tribunal shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purpose aforesaid."

S. C. AGGARWAL,
*Deputy Secretary to the Government of India.*

(Vide *Gazette of India*, Extraordinary, dated March 7, 1950, p. 1049.)

## APPENDIX V

LIST OF PERSONS WHO APPEARED BEFORE THE TRIBUNAL AT BOMBAY DURING THE COURSE OF THE MAIN ADJUDICATION PROCEEDINGS ON BEHALF OF BANKS AND THEIR WOKMEN.

### BANKS

1. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Allahabad Bank, Ltd.
2. Mr. N. C. Acharya, Advocate, for the Andhara Bank, Ltd.
3. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the American Express Co. Inc.
4. Mr. B. K. Daphtary of Messrs. Daphtary Ferreira & Divan, Solicitors, for the Bank of Baroda, Ltd.
5. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Bank of Behar, Ltd. and the Bank of Bikaner, Ltd.
6. Sir Jamshedji B. Kanga and Shri R. J. Kolah instructed by Messrs. Ardesir Hormusji Dinshaw & Co., Solicitors, for the Bank of India, Ltd.
7. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Bank of Jaipur, Ltd., the Bank of Maharashtra, Ltd. and the Bank of Mysore, Ltd.
8. Mr. F. B. Gadgil, Advocate, instructed by Mr. K. B. Gupta, General Manager of the Laxmi Bank, Ltd., for the Bank of Nagpur, Ltd.
9. Mr. Brij Nath, General Manager, for the Banaras State Bank, Ltd.
10. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Bengal Central Bank, Ltd.
11. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, instructed by Mr. R. N. Rastogi, Estt. Supdt. for the Bharat Bank, Ltd.
12. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Canara Banking Corporation, Ltd.
13. Mr. R. K. Agashe, Manager, Bombay Branch, for the Canara Industrial and Banking Syndicate, Ltd.
14. Sir Jamshedji B. Kanga and Shri R. J. Kolah with Mr. H. C. Captain, Managing Director, for the Central Bank of India, Ltd.
15. Mr. A. C. Beynon with Mr. V. A. daSilva of Messrs. Craigie Blunt & Caroe, Solicitors, for the Chartered Bank of India, Australia and China.
16. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Comilla Banking Corporation, Ltd., the Comilla Union Bank, Ltd., and the Devkaran Nanjee Banking Co., Ltd.
17. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Eastern Bank, Ltd. and the Comptoir National D'Escompete de Paris.
18. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, Traders' Bank, Ltd., Bombay, for the First National Bank, Ltd.

055

19. Mr. A. C. Beynon with Mr. V. A. daSilva of Messrs. Craigie Blunt & Caroe, Solicitors, for the Grindlays Bank, Ltd.

20. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Habib Bank, Ltd., the Hind Bank, Ltd., the Hindustan Commercial Bank, Ltd., and the Hindustan Mercantile Bank, Ltd.

21. Mr. A. C. Beynon with Mr. V. A. daSilva of Messrs Craigie Blunt & Caroe, Solicitors, for the Hongkong & Shanghai Banking Corporation.

22. Mr. S. S. Padbidri for the Hyderabad State Bank, Ltd.

23. Sir Jamshedji B. Kanga with Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Imperial Bank of India.

24. Mr. B. Lakkappa Rai, Advocate, for the Indian Bank, Ltd.

25. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Indian Overseas Bank, Ltd., and the Jodhpur Commercial Bank, Ltd.

26. Mr. R. B. Gadgil, Advocate, instructed by Mr. K. B. Gupta, General Manager, for the Laxmi Bank, Ltd.

27. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, Traders' Bank, Ltd., Bombay, for the Laxmi Commercial Bank, Ltd.

28. Mr. A. C. Beynon with Mr. V. A. daSilva of Messrs. Craigie Blunt & Caroe, Solicitors, for the Lloyds Banks, Ltd.

29. Mr. R. K. Agashe, Manager, Bombay Branch of the Canara Industrial and Banking Syndicate, Ltd., for the Maharashtra Apex Bank, Ltd.

30. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Mercantile Bank of India, Ltd.

31. Mr. Sorab D. Vimadalal with Mr. C. H. Martin of Messrs. Little & Co., Solicitors, for the National Bank of India, Ltd.

32. Mr. S. Khambata of Messrs. Wadia Ghandy & Co., Solicitors, for the National City Bank of New York.

33. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the National Savings Bank, Ltd.

34. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, Traders' Bank, Ltd., Bombay, for the New Bank of India, Ltd.

35. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the New Citizen Bank of India, Ltd.

36. Mr. Rustom S. Davar, Advocate, instructed by Messrs, Little & Co., Solicitors, for the Netherlands India Commercial Bank.

37. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Netherlands Trading Society.

38. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, the Traders' Bank, Ltd., Bombay, for the Prabhat Bank, Ltd., and the Punjab & Kashmir Bank, Ltd.

39. Mr. B. N. Singh, Advocate, with Mr. Somesh Chandra Sharma, District Manager, for the Punjab National Bank, Ltd.

40. Mr. R. B. Gadgil, Advocate, instructed by Mr. K. B. Gupta, General Manager of the Laxmi Bank, Ltd., for the Safe Bank, Ltd.

41. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, for the Traders' Bank, Ltd.

42. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Travancore Bank, Ltd.

43. Mr. V. C. Vaidya of Messrs. Captain & Vaidya, Solicitors, for the Union Bank of India, Ltd.

44. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. B. T. Thakur, General Manager, for the United Commercial Bank, Ltd.

## WORKMEN

1. Mr. Dayal Das Khanna, General Secretary, Shri Krishan Gopal Kakar and Mr. Ram Nath Chopra, Joint Secretary, for the Allahabad Bank Employees' Union, Delhi.

2. Mr. D. V. M'Rao, Advocate, instructed by Mr. L. Kameshwara Rao, Secretary, for the Andhra Bank Employees' Union, Masulipatam.

3. Mr. S. N. Misra, President and Mr. Sukumar Ray, Secretary, for the Bank of Baroda Employees' Union, Calcutta.

4. Mr. Ragho Nandan Prasad and Mr. Bageshwari P. Bajpai, for the Bank of Behar, Ltd., Employees' Association, Patna.

5. Mr. P. N. Roy, Secretary, and Mr. P. D. Singh, Joint Secretary, for the Bank of Behar, Ltd., Employees' Union, Calcutta.

6. Mr. Romesh Chandra Chakravarty with Mr. H. Lahiri, General Secretary, for the Bank of India Employees' Union, Calcutta.

7. Mr. N. V. Phadke, Advocate, for the Central Bank of India, Ltd., Employees' Union, Karnatak Group, Bagalkot.

8. Mr. J. G. Adhikari, for the Employees of the Bank of India, Ltd., Jamshedpur.

9. Mr. K. L. Roy, General Secretary, and Mr. P. R. Sen, for Bengal Central Bank Employees' Association, Calcutta.

10. Mr. R. L. Vertuyer, Secretary, for the Bharat Employees' Union, Bihar.

11. Mr. H. L. Parvana, President with Mr. A. S. Chauhan, Secretary, and Mr. O. P. Kalra, for the Bharat Employees' Union, Delhi.

12. Mr. N. M. Roy, for the Bharat Bank, Calcutta, Employees' Association, Calcutta.

13. Mr. J. C. Khanna, General Secretary, and Mr. Kundanlal Sharma, Secretary, for the Central Bank of India Employees' Union, Delhi.

14. Mr. S. Varadarajan, Secretary, for the Central Bank Employees' Union, Mathurai.

15. Shri W. D. Sawant, Mr. C. R. Mankar, for the Elected Representatives of the Employees of the Chartered Bank of India, Australia and China, Bombay.

16. Mr. Niren De instructed by Mr. Gajindra Nath Banerji, Secretary, for the Chartered Bank of India, Australia and China, Local Staff Employees' Union, Calcutta.

17. Mr. Bhajan Lal Khanna, for the Elected Representatives of the Employees of the Chartered Bank of India, Australia and China, Delhi Branch.

18. Mr. Remesh Chandra Chakravarty and Mr. G. N. Trikannad, for the Comilla Union Bank, Nimna Betan Karamchari Sangh, Calcutta.

19. Mr. N. V. Phadke, Advocate, for the Eastern Bank, Ltd., Employees' Union, Bombay Branch, Bombay.

20. Mr. S. R. Ganguly, for the Habib Bank Employees' Union, Calcutta.

21. Mr. Samir Mittra, for the Hind Bank Employees' Union, Calcutta.

22. Mr. Shantilal H. Shah of Messrs. Bhaishankar, Kanga and Girdharlal, Solicitors, with Mr. C. L. Dudhia, instructed by Mr. N. V. Gude, Secretary, for the Imperial Bank of India Indian Staff Association (Bombay Circle), Bombay.

23. Mr. N. V. Phadke, Advocate, with Mr. R. D. Bijoor, General Secretary and Mr. G. S. Aphale, Assistant Secretary, for the Imperial Bank of India Staff Association (Bombay Circle), Poona.

24. Mr. R. D. Bijoor, General Secretary, and Mr. G. S. Aphale, Assistant Secretary, of the Imperial Bank of India Staff Association (Bombay Circle), Poona, for the Imperial Bank of India Staff Union, Surat.

25. Mr. Niren De with Mr. Jyoty Ghose, General Secretary, for the Imperial Bank of India Indian Staff Association (Bengal Circle), Calcutta.

26. Mr. T. S. Ramanujam, President, with Mr. P. S. Chengalvorayan, Secretary, Mr. A. J. Lewis, Secretary, and Mr. Shankara Iyer, Treasurer, for the Imperial Bank of India Indian Staff Union (Madras Circle), Madras.

27. Mr. K. T. Shah and Mr. N. V. Phadke, Advocate, instructed by Mr. R. D. Bijoor, General Secretary, for the Imperial Bank of India Staff Federation, Poona.

28. Mr. T. S. Ramanujam, President, Mr. V. N. Vellaiyan, Vice-President, and Mr. S. Subramanyam, Secretary, for the Indian Bank Employees' Union, Madras.

29. Mr. D. V. M'Rao, Advocate, instructed by Mr. J. P. Sastry, Secretary, for the Indian Bank Sarkars Employees' Union, Sarcars.

30. Mr. T. S. Ramanujam, President, and Mr. G. Nagiah, Secretary, for the Indian Overseas Bank Employees' Union, Madras.

31. Mr. T. S. Ramanujam, President, and Mr. G. Nagiah, General Secretary of the Madras Provincial Union of Bank Employees, Madras, for the Staff of the Indo-Commercial Bank, Ltd., Mathurai.

32. Mr. M. R. Thosar, Pleader, for the Laxmi Bank, Ltd., Staff Association, Akola.

33. Mr. Jugal Kishore Dutt, President, and Mr. Sudhir Ch. Bhan, Secretary, for the Hongkong and Shanghai Banking Corporation (Calcutta Branch), Indian Staff Union, Calcutta.

34. Mr. S. B. DeSilva, Advocate, for the National Bank of India, Ltd., Bombay Branch Clerks' Union, Bombay.

35. Mr. P. L. Ganguli, Vice-President, and Mr. Manoranjan Bhattacharji, Secretary, for the National Bank of India, Ltd., Calcutta, Branch Indian Staff Union, Calcutta.

36. Mr. H. L. Parvana, President, Mr. P. L. Syal, Vice-President, Mr. M. L. D. Sabharwal, Secretary, and Shri H. L. Puri, General Secretary for the Punjab National Bank Employees' Union, Delhi.

37. Mr. Shyam Sundar Talwar, President, and Mr. Dharam Vir Taneja, General Secretary, for the Punjab National Bank Workmen's Union, Delhi.

38. Mr. Vidya Sagar Malhi, Secretary (Administration), and Mr. Girdhari Lal Kakar, General Secretary, for the Punjab National Bank Employees' Union, Ludhiana.

39. Mr. S. B. Sanyal, Secretary, and Mr. S. K. Bhowmik, for the Punjab National Bank Employees' Union, Calcutta.

40. Mr. J. S. Wadkadia, elected representative, for the Staff of the Bombay Branch of the National City Bank of New York.

41. Mr. A. K. Sen, General Secretary, and Mr. A. Saha, for the United Commercial Bank Employees' Association, Calcutta.

42. Mr. Shantilal M. Shah of Messrs. Bhaishankar, Kanga and Girdharlal, with Mr. C. L. Dudhia, instructed by Mr. Kanchanlal V. Paraikh, Secretary, for the Ahmedabad Bank Employees' Union, Ahmedabad.

43. Mr. Jyoty Ghose, and Mr. R. C. Chakravarty, for the All-India Bank Employees' Association, Calcutta.

44. Mr. N. V. Phadke, Advocate, with Mr. S. S. Dighe, Advocate, instructed by Mr. G. N. Trikannad, General Secretary, for the Federation of Bank Employees, Bombay.

45. Mr. T. S. Ramanujam, President, and Mr. G. Nagiah, General Secretary, for the Madras Provincial Union of Bank Employees, Madras.

46. Mr. Shantilal H. Shah of Messrs. Bhaishankar, Kanga and Girdharlal, Solicitors, with Mr. C. L. Dudhia, instructed by Mr. Ratilal A. Bhatt, General Secretary, for the Surat Bank Employees' Union, Surat.

47. Mr. J. N. Mehrotra, Provincial General Secretary, Mr. A. C. Kakar and Mr. B. K. Porwal, Provincial Joint Secretaries, and 18 others for the U.P. Bank Employees' Union, Kanpur and for Hindustan Commercial Bank Employees' Union, East Punjab.

48. Mr. Shantilal H. Shah of Messrs. Bhaishankar, Kanga and Girdharlal, Solicitors, with Mr. C. L. Dudhia, instructed by Mr. Chandrakant T. Sheth, General Secretary, for the Vedodra Rajya Bank Nokar Sangh, Baroda.

659

## APPENDIX VI

### Model Provident Fund Rules for Industrial Employees

1. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context—

(1) "Board" means, the Board of Trustees constituted under rule 2;

(2) "children" means legitimate children and step-chidren, but includes adopted children only if the Board is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child;

(3) "emoluments" means pay in cash drawn monthly by an employee including any wages paid to employee not remunerated by fixed monthly pay but does not include any overtime allowances, any dearness allowance, or bonuses;

Provided that the monthly emoluments of an employee paid at daily rates shall be deemed to be 24/25/26 times his daily rate of wages admissible to him for the first normal working day of the month;

(4) "family" means—

(*a*) in the case of a male subscriber, the wife, or wives and children of the subscriber, and the widow or widows and children of a deceased son of the subscriber:

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which she belongs to be entitled to maintenance, she shall henceforth be deemed to be no longer a member of the subscriber's family unless the subscriber subsequently indicates by express intimation in writing to the Board that she shall continue to be so regarded;

(*b*) in the case of a female subscriber, the husband and children of the subscriber and the widow or widows and children of a deceased son of the subscriber:

Provided that if subscriber by intimation in writing to the Board expresses her desire to exclude her husband from the family, the husband shall henceforth be deemed to be no longer a member of the subscriber's family unless the subscriber subsequently cancels formally in writing her intimation excluding him:

Provided further that, in either case, if the child of a subscriber has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised as conferring the status of a natural child, such a child shall be considered as excluded from the family of the subscriber;

"Fund" means the Provident Fund in force in;

(6) "Subscriber" means an employee who is required under these rules or is permitted by the employer to subscribe to the Fund.

2. *Constitution and Management of the Fund.*—(1) The Fund shall be administered by a Board of Trustees formed with an equal number of representatives of the employer and the subscribers. The total strength of the Board shall not exceed ten.

(2) The Board shall elect its own President, and he shall exercise his individual vote on any question under discussion in the Board but shall not have the right to a casting vote.

(3) The employer shall have the right to appoint a substitute if during the course of the working year of the Board a vacancy occurs among the representatives nominated by him.

(4) The subscribers shall have the right to elect a substitute for any of their representatives who resigns from the Board or ceases to be a subscriber during the term of office of the Board.

(5) The term of office of each Board of Trustees shall be one year from the date of its constitution.

(6) The subscribers shall elect their representatives to the Board each year at a general meeting held specifically for the purpose and the employer shall nominate his representatives as soon as possible thereafter.

(7) The Board shall elect or appoint its own Secretary, and he shall keep a record of the decisions of the Board and the accounts of the Fund. He shall also be responsible for keeping the records of the Board.

(8) Out of the moneys received from time to time the Board may keep in an account or accounts in any Bank or Banks a sum not exceeding Rupees.... The Board may authorise its Secretary to operate on the Bank account up to a sum not exceeding Rupees.....

(9) The annual general meeting of the subscribers shall ordinarily be held in the month of.....each year.

(10) The Board shall meet at least once a quarter, and one half of the total membership shall form a quorum.

(11) The accounts of the Fund shall be audited by an Auditor appointed annually by the Board for the purpose. The Auditor's report on the accounts shall be made available to the subscribers and to the employer.

3. (1) *Compulsory Subscribers.*—Every non-pensionable employee who has worked for not less than 200 days in a year or 300 days during two years and whose monthly emoluments are not less than Rs. 25 shall subscribe to the Fund in accordance with these rules.

(2) *Optional Subscribers.*—An employee whose monthly emoluments are less than Rs. 25 and who has worked for not less than 200 days during a year or for 300 days during 2 years may also subscribe to the Fund in accordance with the rules, if so permitted by the employer.

4. *Nomination.*—(1) The Board shall require every subscriber to make a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death ocurring before the amount standing to his credit has become payable.

Provided that a subscriber may modify a nomination once made after giving written notice of his intention of doing so.

(2) Nomination shall save as hereinafter provided be in favour of one or more members of the subscriber's family and shall be made in the appended form. If a subscriber nominates more nominees than one, he may apportion the amount that may stand to his credit in the Fund amongst his nominees at his own discretion. If, at the time of making the nomination, the subscriber has no family, the nomination may be in favour of any other person or persons,

but if the subscriber subsequently acquires a family, such nomination shall forthwith stand cancelled.

5. *Subscriber's Account.*—(1) An account shall be opened in the name of each subscriber in which shall be credited :—

(*i*) the subscriber's subscription ;
(*ii*) the contribution made by the employer to the subscriber's account ;
(*iii*) the interest on the total moneys in the subscriber's account.

(2) Each subscriber shall be given a pass book in which shall be entered every month, the credits referred to in sub-rule (1) and also the advances, if any, taken and the repayments made, by him.

6. *Conditions and Rates of Subscription.*—(1) Every subscriber shall subscribe monthly to the Fund when on duty. The peyment of subscription during leave shall be optional, and no subscription shall be recovered when the subscriber is on leave without pay.

(2) The amount of subscription shall be fixed by the subscriber himself and it may be any sum not less than 3 1/8 per cent (*i.e.*, a half anna in the rupee) of his emoluments and more than 8 1/3 per cent (*i.e.*, one anna and four pies in the rupee). The amount shall be rounded to the nearest anna.

(3) A subscriber may alter his rate of subscription with effect from the beginning of any year, financial or otherwise, which may be followed by the employer for the purpose of his accounts provided that he gives notice of the change to the employer before the end of the preceding year.

7. *Realisation of Subscriptions.*—The subscription due from each subscriber shall be realized by monthly deductions from his emoluments.

8. *Contribution by the Employer.*—The employer shall make a monthly contribution to the account of each subscriber equal to the amount subscribed by the subscriber himself, and such contribution shall be credited to the Fund not later than the fifteenth of the month in which the subscriber's subscription is deducted from his emoluments.

9. *Interest.*—Interest earned on the moneys of the Fund invested under rule 13 shall be credited to the accounts of the individual subscriber *pro rata*.

10. *Advances from the Fund and their Repayment.*—(1) A temporary advance may be granted to a subscriber from the amount standing to his credit in the Fund at the discretion of the Board, subject to the following conditions :—

(*a*) No advance may be granted unless the Board is satisfied that the applicant's pecuniary circumstances justify it and that the amount advanced will be expended on either or both of the following objects :—

(*i*) to pay expenses incurred in connection with the prolonged illness of the subscriber or any person actually dependent on him ;
(*ii*) to pay obligatory expenses on a scale appropriate to the subscriber's status in connection with marriages, funerals or ceremonies which by his religion it is incumbent on him to perform.

(*b*) An advance shall not ordinarily exceed three months emoluments and shall not exceed

(*i*) if made for the object specified in sub-clause (*i*) of clause (*a*) the amount of subscriptions and interest thereon standing to the credit of the subscriber in the Fund ; and

(*ii*) if made for any of the objects specified in sub-clause (*ii*) of clause (*a*) half such amount.

(*c*) A second or subsequent advance shall not be granted until at least 3/6 months have lapsed since the complete repayment of a previous advance together with interest.

(2) An advance shall be recovered from the subscriber in such number of equal monthly instalments as the Board may direct; but such number shall not be less than 12, nor more than 24. A subscriber may at his option make repayment in a smaller number of instalments than the number directed.

(3) Recovery shall be made in the manner provided by rule 7 for the realisation of subscriptions and shall commence on the occasion, after the advance is made, on which the subscriber receives not less than 75 per cent of his normal emoluments. Recovery shall not be made, except with the suscriber's consent while he is on leave.

(4) After the principal of the advance has been fully repaid, interest shall be paid thereon at such rate as may be prescribed by the Board from time to time.

(5) Interst shall be recovered in one or two instalments in the month or months immediately following the repayment of the principal.

(6) Recoveries of advances and the interest thereon shall be credited as they are made to the account of the subscriber in the Fund.

11. *Circumstances in which accumulations are payable.*—(1) If a subscriber dies or for other reasons ceases to be a subscriber, the amount standing to his credit in the Fund, including interest up to date shall become payable to him or his nominee, subject to any deduction authorised under rule 12.

(2) No claim shall be entertainable against the Fund if made more than three years after the date on which the amount due became payable.

(3) Any amount due from the Fund shall cease to bear interest after three months from the date on which the amount became payable.

(4) Payments under sub-rule (1) to the employee or his nominees in the event of his death, shall be made within one month of the date on which they fall due. In the case of the death of an employee who has no subsisting nomination it shall be competent for the Board to pay the amount due to the natural heir or heirs of the deceased employee provided the Boards is satisfied as to the heirship of the claimant or claimants.

12. *Deductions.*—(1) Subject to the provisions of sub-rule (2) no deduction shall be made from the amount standing to the credit of a subcriber when final payment is made to him or his nominees under rule 11.

(2) If any subscriber is dismissed from service for serious misconduct or resigns or leaves his employment at his own request otherwise than on medical grounds, or if any voluntary subcriber while remaining in his employment discontinues his subscriptions to the Fund, the Board may direct that deductions shall be made from the amount paid into the subscriber's account by the employer under rule 8 (including interest in accordance with the following scale):—

| | | |
|---|---|---|
| (*a*) | Subscribers of less than 3 years standing .. | 100 per cent. |
| (*b*) | Subscribers of 3 but less than 6 years standing | 50 per cent. |
| (*c*) | Subscribers of 6 but less than 9 years standing | 25 per cent. |
| (*d*) | subscribers of 9 or more years standing .. | Nil. |

663

13. *Investment.*—The moneys of the Fund not immediately required for the purposes of the Fund and held in a Bank account shall be invested by the Board in any securities for the time being authorised under the Indian Income-tax Act, 1922 and the Indian Trusts Act, 1882 and the rules made thereunder in respect of the investment of moneys of a Provident Fund recognised under the Indian Income-tax Act, 1922. Such investment shall be made in the name of the Board and may when the conditions of investment permit be made payable or transferable to the order of any two members of the Board.

14. *Reference of disputed cases to a Referee.*—(1) The decision of the Board shall be final and binding upon the subscribers and the employer in all matters relating to the Fund, and in the event of the Board being equally divided in its opinion on any dispute between the employer and a subscriber or his nominees in the event of his death, the dispute shall be submitted for decision to a referee agreed upon by the Board.

(2) In the event of the Board not agreeing upon a referee, the dispute shall be referred to an authority nominated for this purpose, by a general or special order by the Provincial Government* and the decision of such authority will be final. The fees and expenses of a referee agreed upon by the Board or of the authority to whom the dispute is referred shall be defrayed out of the Fund.

15. *Closure of the Fund.*—Before the closing of the Fund, all amounts due and all assets shall be realised and all liabilities shall be liquidated. All accumulations due to members shall be paid and the surplus, if any, shall be paid to members of the Fund at the date of closing in proportion to the amount standing to the credit of each member.

## FORM OF NOMINATION

I hereby direct that the amount at my credit in the Provident Fund at the time of my death shall be distributed among the persons mentioned below in the manner shown against their names :—

| Name and address of the nominee or nominees | Relationship of each nominee with the subscriber | Age of each nominee | Amount or share of accumulations |
|---|---|---|---|
| (1) | (2) | (3) | (4) |
| | | | |

NOTE.—Column (4) shall be filled in so as to cover the whole amount at credit.

* An employer intending to adopt this sub-rule will have to obtain Provincial Government's permission.

664

## APPENDIX VII

MEMORANDUM OF THE HEAD OFFICE OF THE NATIONAL CITY BANK OF NEW YORK SUGGESTING METHOD OF ADJUSTING RETIREMENT BENEFITS IN THE CASE OF BANKS PAYING HIGH SALARIES, DEARNESS ALLOWANCES, ETC.

There has recently developed in the United States a form of Union demand known as the "package". The employer agrees to contribute so many cents per hour of work (or percentage of each employee's salary) to be spent for employee welfare, including retirement benefits, hospitalization, group life insurance, and other so-called "fringe" benefits. By adopting a "package" solution the Tribunal could act with advanced statesmanship because such a solution would render substantial and equal justice to all bank employees, no matter in which bank they work and place no inequitable burden upon any bank.

The "package" principle, applied to the issues now before the Tribunal, might well include the following:—

(1) Establish a scale of basic salaries in the manner of Mr. Justice Divatia's Award of April 1947.

(2) Base Dearness allowance on a fixed percentage of the basic salary established by the Award.

(3) Fix minimum Provident Fund contributions at a prescribed per cent say 5 per cent or 6 per cent of the established basic salary to be made equally by the Bank and the employees.

(4) Consolidate the several kinds of leave into one category called "Annual Leave" of which one month per calendar year will be at full salary and Dearness Allowances. New employees to be entitled to two weeks leave after one year of service; three weeks after two years of service; and full four weeks after three years of service.

(5) Order that there shall be established by each Bank a "Retirement Benefit Account" in the name of each employee.

(6) The Bank to charge against each employee's Retirement Benefit Account the following:—

(*a*) That part of the salary paid which is in excess of the minimum basic salary applicable to the employee according to the length of his service under Divatia Award from the date it came into force and under the Award of the Tribunal from the date it comes into operation.

(*b*) That part of the Dearness Allowance paid which is in excess of the minimum required to be paid under Divatia Award from the date it came into force and under the Award of the Tribunal from the date it comes into operation.

(*c*) That part of the Bank's contribution made by the Bank to the Provident Fund which is in excess of the prescribed percentage under Divatia Award from the date it came into force and under the Award of the Tribunal from the date it comes into operation.

(*d*) The amount of salary paid for the period of absence in excess of one month per calendar year (or less for new employees. See No. 4 above).

(*e*) That part of the bonus, if any, paid which is in excess of what would have been paid on the basis of minimum basic salary applicable to the employee under the Award of the Tribunal.

(7) The Bank to credit the Retirement Benefit Account with the amount of gratuity (or consolidated amount of pension as the case may be) payable to the employee according to the provisions of the Award on the basis of minimum basic salary applicable to the employee at the date of his retirement.

(8) The net balance in the Retirement Benefit Account to be paid to the employee in Cash at the end of his service.

If for any reason an over-all Retirement Benefit Account formula seems impractical, the Tribunal might undertake to accomplish a similar result by providing that any salary payment, Dearness Allowance, or Provident Fund Contribution in excess of the minimum required by the Award may be offset against any other monetary benefit provided in the Award. This would be an almost necessary provision in case the Tribunal should order any mandatory bonus or other new category of payments.

666

## APPENDIX VIII

BIBLIOGRAPHY OF THE BOOKS, REPORTS, AWARDS AND PERIODICALS REFERRED TO IN THE AWARD.

### BOOKS

(1) Aronson V. R. (Editor).—Russell on the Power and Duty of an Arbitrator and the Law of submission and Awards. London: Stevens and Sons, Ltd.

(2) Higgins H. B.—A New Province for Law and Order. Sydney: Constable and Company, Ltd., 1922.

(3) International Labour Office.—Conciliation and Arbitration in Industrial Disputes. Geneva: International Labour Office, 1933.

(4) International Labour Office.—Minimum wage-fixing machinery. Geneva: International Labour Office, 1927.

(5) Kirkaldy H. S.—Spirit of Industrial Relations. Bombay: Oxford University Press, 1947.

(6) Savkar D. S.—Joint Stock Banking in India. Bombay: Popular Book Depot, 1938.

(7) Subba Rao, M. V.—Outlines of Banking System in India. Bombay: Vora & Co., 1948.

(8) Teller Ludwig.—Law Governing Labour Disputes and Collective Bargaining. New York: Baker, Voorhis & Co., Inc., 1940.

(9) Topham A. F. (Editor).—Palmer's Company Precedents. London: Stevens and Sons, Ltd.

(10) Sayers R. S.—Modern Banking. London: Oxford University Press, 1938.

### REPORTS AND AWARDS

(1) Adarkar B. P.—Report on Health Insurance for Industrial workers. Delhi: Manager of Publications, 1944.

(2) Annual Report of the Federal Deposit Insurance Corporation. Washington Federal Deposit Insurance Corporation, 1946.

(3) Award of the Conciliation Board (Banks). Allahabad: Printing and Stationery, 1949.

(4) Census of India 1941.—Delhi: Manager of Publications, 1943.

(5) Despande, S. R.—Report on an Enquiry into Family Budget of Industrial Workers in—

(*a*) Ahmedabad
(*b*) Akola
(*c*) Berhampur
(*d*) Bombay
(*e*) Cuttack
(*f*) Dehri-on-Sone

(g) Delhi
(h) Gauhati
(i) Jalgaon
(j) Jamshedpur
(k) Jharia.
(l) Jubbulpore
(m) Howrah and Bally
(n) Kharagpur
(o) Ludhiana
(p) Monghyr and Jamalpur
(q) Sholapur.
(r) Tinsukia.

Delhi : Manager of Publications, 1947-48.

(6) Ministry of Commerce, Government of India.—National Income of the Indian Union Provinces, 1946-47. Delhi : Manager of Publications, 1950.

(7) Office of the Economic Adviser to the Government of India.—Report on an Enquiry into the Family Budgets of Middle Class Employees of the Central Government. Delhi : Manager of Publications, 1949.

(8) Rajadhyaksha, G. S. Hon'ble Mr. Justice.—Award in the Trade Dispute between the Posts and Telegraphs Department and its Non-Gazetted Employees (2 Volumes). Delhi : Manager of Publications, 1946.

(9) Rajadhyaksha, G. S. Hon'ble Mr. Justice.—Award in the Trade Dispute between the Nine Indian Government Railway Administrations and their respective Workmen (2 Volumes). Delhi : Manager of Publications, 1947.

(10) Report of the Central Pay Commission.—Delhi : Manager of Publications, 1947.

(11) Report of the Committee on Fair Wages.—Delhi : Manager of Publications, 1949.

(12) Report of the Committee on Finance and Industry (Gmd. 3897). London : H.M. Stationery, 1931.

(13) Report of the Court of Enquiry to investigate the questions of Dearness Allowance for Railway employees. Delhi : Manager of Publications, 1941.

(14) Report on Currency and Finance.—Bombay : Reserve Bank of India, 1948-49.

(15) Report of the Indian Central Banking Enquiry Committee. Calcutta: Central Publication Branch, Government of India, 1931.

(16) Report of the Textile Labour Enquiry Committee. Bombay : Government Central Press, 1940.

(17) Venkataramaiya, M. Rao Bahadur.—Award of the Industrial Tribunal on the Conditions of Labour in the Textile Industry in Madras Presidency. Madras Government Press, 1947.

## PERIODICALS

(1) All England Law Reports.—London : Law Journal, 11 and 12 Bell Yard.

(2) Bank Officer.—London : 28, Queen Street, Westminister.

668

(3) Bombay Government Gazette.—Bombay : Government Central Press.

(4) Bombay Law Reporter.—Bombay Krishna Mahal, Marine Drive.

(5) Calcutta Gazette.—Calcutta : West Bengal Government Press, Alipore.

(6) Capital.—Calcutta : Capital, Ltd.

(7) Commerce.—Bombay : Commerce (1935) Ltd.

(8) Commonwealth Arbitration Reports.—Sydney : Law Book Company of Australia Pty., Ltd.

(9) Commonwealth Law Reports.—Sydney : Law Book Co. of Australia Pty., Ltd.

(10) Eastern Economist.—New Delhi : Eastern Economist, Ltd.

(12) Indian Factories Journal.—Madras : Company Law Institute of India, Ltd.

(13) Indian Labour Gazette.—Delhi : Manager of Publications.

(14) Industrial Court Reporter.—Bombay : Office of the Deputy Commissioner of Labour (Information), Secretariat.

(15) International Banking Supplement to the Financial Times of London. —London : Financial Times, Ltd., 1948.

(16) Labour Gazette.—Bombay : Office of the Deputy Commissioner of Labour (Information), Secretariat.

(17) Law Reports.—London : Council of Law-Reporting.

(18) Monthly Abstract of Statistics.—Delhi : Manager of Publications.

(19) Reserve Bank of India Bulletin.—Bombay : Reserve Bank of India.

669

# APPENDIX IX

## AWARDS

670

## APPENDIX IX

(1)

GOVERNMENT OF INDIA

*MINISTRY OF LABOUR*

## NOTIFICATION

*New Delhi, the 9th December 1949*

*No. LR-2(251)/I.*—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All-India Industrial Tribunal (Bank Disputes), in the matter of alleged victimization, retrenchment, dismissals, etc., in respect of banking companies in the Province of Madras :—

## BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

## ADJUDICATION

BETWEEN

(1) The Imperial Bank of India,
(2) The Indian Overseas Bank, Ltd.,
(3) Eastern Bank, Ltd.,
(4) National Bank of India, Ltd.,

AND

Their Workmen.

*In the matter of alleged victimization, retrenchment, dismissal, etc., at Madras and other places in the Madras Province*

*Present* :—

Mr. K. C. Sen, *Chairman*,
Mr. J. N. Majumdar, *Member*,
Mr. N. Chandrasekhara Aiyar, *Member*.

*Appearances* :—

Mr. H. M. Small and Mr. L. D. Miller, instructed by Messrs. King and Partridge, Solicitors, for the Imperial Bank of India, Eastern Bank and the National Bank of India, Ltd.

Mr. V. C. Gopalratnam, Advocate, for the Indian Overseas Bank, Ltd.

671

Mr. T. S. Ramanujam and Mr. B. Chengalvaroyan, for the Imperial Bank Indian Staff Union.

Mr. R. Venkatram and Mr. R. Dandapani, for the Indian Staff Union of the National Bank of India.

Mr. S. C. C. Antony Pillai, for the employees of the Indian Overseas Bank.

Mr. K. S. Shetty, for P. Kuppuswami.

## AWARD

In the course of the Tribunal's inquiry at Madras four cases of alleged victimization were brought to its notice. Three of them relate to the Imperial Bank and the fourth to the Indian Overseas Bank. We shall now deal with them seriatim.

2. *R. Subbarayalu.*—He was a messenger in the Mount Road branch of the Imperial Bank of India, Madras, with a service of about 9 years to his credit. His services were dispensed with on 24th November 1948 as "no longer required" and he was given salary for the rest of the month as well as one month's salary in lieu of notice. The complaint is that no reasons were given for this termination. This, however, is not correct. There is a memorandum, dated 21st July 1947 which was communicated to him in which he was described as a "lazy, untidy and poor worker." On 13th August 1947 he got a second warning in these terms: "Messenger R. Subbarayulu is informed that he has been reported to be often very disobedient and inattentive to his work. He also absented on 9th August 1947 without obtaining previous sanction. His attention is drawn to previous letter of warning, dated 21st July 1947. Unless satisfactory improvement is shown, further steps will be taken." On 11th November 1948, he applied for leave for the next day stating that he had to bring his mother from a mofussil station. The Agent refused the leave and asked him to avail himself of the next two days 13th and 14th November, which were Bank Holidays. Subbarayulu took up the leave application with the Agent's remark 'no' written on it and tore it to bits in a constituent's presence. As punishment for tearing up an official record the Agent gave him turn duty on the 12th November and morning duty on the 13th, but he refused to sign the duty book. Thereupon the Agent reported the matter to the higher authorities. The case was placed before the Local Board of the Bank and Subbarayulu's services were dispensed with.

3. In the circumstances the non-mention of the reasons in the order of discharge does not appear to us to be very material and the fact that a formal charge was not framed against him and his explanation not taken cannot be said to be sufficient grounds calling for our interference. We would, however, remark that it is an elementary principle that before an employee's services are dispensed with, a formal written charge should be given to him and that he should be given a reasonable opportunity to explain his alleged misconduct. We give no direction in this case.

4. *M. Easaw.*—His grievance is that he was transferred without proper ground from the Cochin Branch of the Imperial Bank to the Pollachi Branch on the 4th May 1949. He asked for leave and when this was refused owing to shortage of clerks he absented himself without permission. The Cochin branch agent suspended him and recommended his dismissal. The Head Office, however, set aside the suspension order but transferred him. He has no case

for complaint when he was thus leniently treated. Anyhow, as it appeared to us that he had been taught a sufficient lesson by this transfer and that he might now be allowed to go back to the Cochin Branch, we suggested this to Mr. Small who appeared for the Imperial Bank and he stated, after consulting his clients, that Easaw would be transferred back to Cochin at the earliest available opportunity. In view of this statement no directions from us are necessary in this case.

*G. Satahi Patihi Rao* (Guntur Branch of the Imperial Bank of India):—

5. He was absent at the hearing. He had service for 21 months to his credit and was drawing a salary of Rs. 74 per mensem, when his services were dispensed with on 19th April 1948 on payment of a month's salary in lieu of notice. He had been granted nine days of ordinary leave and was to have rejoined duty on the expiry of this period. But he did not do so and applied by letter for a month's leave "on loss of pay" (*i.e.*, without pay) for private domestic reasons. The leave was not sanctioned and the agent of the Bank at Ellore wherefrom the leave application was sent was asked by telephone by the Guntur agent to inform the clerk that he must rejoin duty on the due date. We are told by the Ellore agent that he did send word to the clerk and advised him not to take leave but that the clerk did not heed the advice and stayed away. The report of Mr. Savoor, Agent of the Guntur Branch to the Secretary and Treasurer of the Imperial Bank, Madras, is to be found in his letter, dated the 15th April 1948 where reference is made to a previous occasion when after taking one day's leave this particular clerk had absented himself for over a month on the ground of his mother's illness and his own illness and when he had been reprimanded for absence from duty.

6. The conduct of the clerk was certainly objectionable but in view of the fact that in this case also no formal charge was drawn up nor was an opportunity given to him to give an explanation and the further fact that the Ellore agent appears to have reported that the ground of illness of his mother for which the leave was wanted was true, we felt, and we gave expression to our feeling, that this was a case which deserved a more sympathetic consideration than has been given by the management. The Imperial Bank has assured us through Mr. Small that his case will be reconsidered in the light of the opinion that we have formed in this case. In view of this assurance we think it necessary to give any directions regarding Mr. G. Satahi Pathi Rao.

7. *P. Kuppuswami.*—He was an attender with three year's service in the Indian Overseas Bank and he was suspended for one week for refusal to obey a call from the agent while working in the office. He wants his salary for this period to be paid to him. It is obvious that the order of suspension was necessitated in the interest of discipline and cannot be said to be an unjust or improper order. If so, the question of salary can hardly be said to arise, and Mr. V. C. Gopalratnam, who appeared for the Bank stated that if the attender withdrew the charge of victimization, the Bank would consider the payment of the salary for the period in question. Mr. K. S. Shetty who appeared on behalf of Kuppuswami withdrew the charge; and there is nothing more to be said about this case.

8. Two more cases were brought to our notice—those of Tholasingham Mudaliar of the Eastern Bank of India, Ltd., and T. Venkatachalam Pillai of the National Bank of India. We could not, however, deal with these cases as the dismissal of the former (Tholasingham) took place on 26th August

673

1949, after the date of the notification constituting this Tribunal, and in the case of the latter the termination of service or dismissal was as long ago as 1939. In fact it may be mentioned that no notices were issued in these two cases to the Banks concerned calling upon them to answer any charges.

9. Two other cases were brought to our notice towards the end of the proceedings held at Madras. The first is that of Mr. Bhoovarahamurthy who was a cashier in charge of the branch of the Indian Overseas Bank, Ltd., at Mutupet and whose services were terminated on the 30th May 1949. The application was sent by post, no notice having been given to the Bank. He was also absent at the hearing and no one present at the hearing represented him. He wants his salary for the period during which he was absent prior to his discharge and one month's wages in lieu of notice. In view of the casual manner in which he seems to have sought his remedy from us, we are not inclined to grant any relief in this case and give no directions.

10. The other case is that of C. P. Kuruvilla, a clerk of the Nationa Bank of India, Ltd., whose services were dispensed within December 1944 on the ground of continued ill-health. We have decided not to allow individual disputes such a long standing to be reopned before us and we, accordingly, do not interfere in this case also.

K. C. SEN,
*Chairman.*

J. N. MAJUMDAR,
*Member.*

N. CHANDRASEKHARA AIYAR,
*Member.*

CAMP MADRAS:

*The 4th November, 1949.*

(Vide *Gazette of India*, Extraordinary, dated 9th December 1949, pages 2647-50.)

---

(2)

*MINISTRY OF LABOUR*

NOTIFICATION

*New Delhi, the 17th January 1950*

*No. LR-2(263)/I.*—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following Award of the All-India Industrial Tribunal (Bank Disputes), in the

matter of alleged victimization, retrenchment, dismissals, etc., in respect of banking companies in the Province of West Bengal :—

## BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

### ADJUDICATION

BETWEEN

1. Chartered Bank of India, Australia and China, Calcutta,
2. Eastern Bank, Limited, Calcutta,
3. Comilla Banking Corporation, Limited, Calcutta,
4. The United Commercial Bank, Limited, Calcutta,
5. Bengal Central Bank, Limited, Calcutta,
6. Imperial Bank of India (Bengal Circle),
7. Hindustan Commercial Bank, Limited, Calcutta,
8. Lloyde Bank, Limited, Calcutta,

AND

Their Workmen.

*In the matter of a dispute,* re *alleged wrongful termination of services, victimization, etc.*

*Present* :

Mr. K. C. Sen, *Chairman,*

Mr. J. N. Majumdar, *Member,*

Mr. N. Chandrasekhara Aiyar, *Member.*

*Appearances* :

1. Mr. S. K. Mullick of Messrs. Sandersons and Morgans with Mr. Macfarlane, the Accountant, for the Chartered Bank of India, Australia and China.
2. Mr. P. P. Ginwalla, instructed by Messrs. Orr Dignam & Co., Solicitors, for the Lloyds Bank, Ltd., and Eastern Bank, Ltd.
3. Mr. S. N. Sen with Mr. Tanubhai Desai, for the Comilla Banking Corporation, Ltd.
4. Mr. Tanubhai Desai with Mr. B. T. Thakur, for the United Commercial Bank, Ltd.
5. Mr. P. N. Sen with Mr. S. N. Sen, for the Bengal Central Bank, Ltd.
6. Dr. S. K. Gupta, instructed by Messrs. Sandersons and Morgans, Solicitors, for the Imperial Bank of India.
7. Mr. S. K. Bose, instructed by Mr. B. P. Khaitan, Solicitor of Messrs. Khaitan & Company, for the Hindustan Commercial Bank, Ltd.
8. Mr. M. M. Sen, for the Chartered Bank of India, Australia and China Local Staff Employees' Union.

675

9. Mr. S. C. Maulik with Mr. T. N. Guha Roy, for the Eastern Bank (Calcutta Branch) Indian Employees' Union.
10. Mr. J. C. Sen with Mr. M. Banerjee, for the Comilla Banking Corporation Employees' Association.
11. Counsel Mr. Sadhan Gupta with Mr. A. K. Sen, for the United Commercial Bank Employees' Association.
12. Mr. K. L. Roy, for the Bengal Central Bank Employees' Association.
13. Dr. B. Rai Chowdhari with Mr. S. N. Tagore and Mr. Jyoty Ghose, for the Imperial Bank of India Indian Staff Association (Bengal Circle).
14. Mr. Adhir Ranjan De in person.
15. Mr. Provat Kar, for Mr. Dinesh Chandra Bhowmick.
16. Mr. N. N. Sen, for Mr. Kumud Bandhu Chatterjee.
17. Mr. M. M. Sen with Messrs. Provat Kar and Asoke Ghosh, for the Lloyd Bank Indian Staff Association

## AWARD

The following cases of alleged wrongful termination of services, victimization, etc., were heard by the Tribunal during their visit to Calcutta from the 3rd October 1949 to the 17th October 1949 and on the 5th December 1949—

I. *Chartered Bank of India, Australia and China*—

*Gobinda Chandra De.*—He was employed on probation on the 6th November 1944 and later made permanent in the Cash Department. On the 28th February 1947, on the recommendation of a new Chief Cashier who was to replace the existing Cashier on the next day, he along with some others were served with notices dispensing with their services. At that time he was a collecting sarkar. His services were accordingly dispensed with. He had a good record and on the 24th April 1947 he got a certificate of good conduct from the Bank. In all 7 employees of the Cash Department were thus discharged on the 28th February 1947. Two of these were later re-appointed and four secured jobs elsewhere. Only De could neither find employment elsewhere nor was he re-appointed. On the 4th March 1947 the Committee of Management of the Employees' Union passed a resolution to the effect that the sudden dismissal of seven men in the Cash Department had put the rest of the staff in a state of panic because in the past when there had been a change of Cashier no such step had been taken, although the new Cashier was permitted to fill up vacancies that occurred after his appointment by bringing his own men. The resolution added "that it will be difficult for men serving for a period of 10 or 12 years to procure service at such a hard time. Under the circumstances the Authorities and the Cashier be requested to consider their cases favourably and take them either in the Clive Street or Fairlie Place branches with a warning to them if any offence committed". A letter was sent to the Agent of the Bank with a copy of the resolution on the 5th March, and on the next day the Agent replied that members of the clerical staff might rest assured that it was not and never had been the policy of the Bank to serve dismissal notices out of hand, but that in the case of members of the Cash Department they were employed by the Bank on the recommendation and responsibility of the Chief Cashier for the time being

and that if certain members of the Cash Department were not acceptable to the new Cashier then the Bank under the terms of its agreement with the Chief Cashier had no alternative but to dispense with the services of the unwanted men. The clause of the agreement with the Chief Cashier which was relied upon reads thus :

> " That the Bank shall dismiss any person employed in the said Cash or Godown Departments under the preceding clause of whom the Cashier shall intimate in writing to the Bank that he no longer approves and the Cashier shall select subject to the approval of Agent or Acting Agent or Sub-Agent of the said Calcutta Agency another or others in the stead of the person or persons so dismissed."

In this case it does not appear that the new Cashier gave any intimation in writing to the Bank that he " no longer approves " of Govinda Chandra De. The clause of the agreement relied upon refers to the previous clause which says, " That the Cashier shall accept for employ in the Cash and Godown Departments of the Calcutta Agency the staff of Sub-Cashiers (if any), sarkars, moherers, cash-keepers, poddars, pay clerks, peons, durwans, godown-keepers and other persons formerly employed in such departments at the said Calcutta Agency. All other persons who may hereafter be employed in the said Departments during the continuance of this Agreement shall be selected by the Cashier subject to the approval of the Bank ". This clause clearly indicates that the new Cashier was bound to accept the existing staff in the Cash Department at the time of his own appointment. This is further shown by the expression " he no longer approves " in the clause relied on by the Bank, suggesting that the disapproval must come after he has had the opportunity to form an opinion of the work of the employee whom he desires to remove. The new Chief Cashier was examined before the Tribunal but his explanation cannot be said to be convincing. He has stated that he had been informed that all the competent persons in the Receiving and Paying Sections would be transferred to the Fairlie Place branch and that, therefore, he wanted to bring some competent men from outside, but that De was not one of the men to be transferred to the Fairlie Place branch ; also that he wanted new men in all the important places, that De was not in an important place and that before he took charge he expressed no opinion of De. In his evidence he stated that it was the prevailing practice with all new Cashiers in Banks that unless he was allowed to bring his own men he would not take charge, that he wanted to bring in 7 men before he took charge and that accordingly, he made a list of seven juniormost men to be discharged, De being one of them. The practice may have been what he has stated, but in view of the terms of the agreement and in view of the fact that De's record must be deemed to be good as shown by the certificate granted to him and also in view of the fact that two out of the discharged men were subsequently taken back by the Bank, we are of opinion that De should be taken back into the service of the Bank within one month of the date with effect from which this Award will become operative and that he should be paid his full pay and allowances in respect of the six months prior to his reinstatement, for we think he must be treated, for the purposes of the clause of the agreement relied on by the Bank, as one of the persons employed in the Cash Department under the preceding clause. We direct accordingly. If the Bank wants to follow an unwritten practice which is not embodied in its agreement, the sooner the form of such agreement is revised the better, for in interpreting the rights of the employees the terms of a formal agreement must be given precedence and superiority over any kind of practice that may be existing in an institution.

II. *Eastern Bank, Limited*— 677

*Jadoram Dubay*.—He was a sarkar in the Cash Department and aged about 55 years when he was discharged on the 1st May 1949. On the 2nd March 1949 he was sent to the Currency Office to get some currency notes valued about Rs. 4,000 changed. He went to that office, which is a crowded place, and gave the bundles of the notes to a clerk in the said office and received a token in exchange. Thereafter he received one bundle of notes but somehow it got stolen from his person. He at once informed the police and made up the loss of about Rs. 440. On the 8th March 1949 he got a letter from the Bank saying that the Bank had been advised by the Banians that they could no longer guarantee his work which recently had cluminated in the loss of about Rs. 440 and that, therefore, notice was being given for termination of his service with effect from the 30th April 1949. Dubay pointed out that he had made good the loss, but the Manager again wrote to him pointing out to him that the question of recovery of the amount was no concern of the Bank being entirely a matter between the Banians and himself. "The position" the Manager said, "is that you were employed by the Bank subject to the Banians' guarantee. The Banians now advise us that due to a veriety of circumstances they can no longer guarantee you fearing that if they do, they will sustain serious losses. In these circumstances, therefore, the Bank regrets that it can no longer employ you and has given you notice to that effect". In our opinion, the incident on which this man was discharged does not suggest that he had been guilty of dishonesty. He informed the police immediately and made good the loss and there does not appear to have been any previous incident of this nature connected with this employee. He might no doubt had been careless, but as the place was very crowded his pocket might have been picked in spite of precaution having been taken. It seems to us, therefore, that as the employee had completed about 21 years service and attained the age of about 55 years, the termination of his service should be treated as retirement. We direct accordingly and further direct that he should be entitled to all the benefits consequent on honourable retirement.

III. *Comilla Banking Corporation, Limited*—

(1) *Hirendra Nath Roy Chowdhuri*.—He has alleged that he has been demoted for his trade union activities, having been an office bearer of the union. He was appointed by the New Standard Bank as an assistant in 1944 on a salary of Rs. 60. On confirmation his pay was Rs. 70 in the grade of Rs. 70—10—200. On the 25th May 1946 the New Standard Bank was amalgamated with the Comilla Banking Corporation. On the 2nd April 1947 he was appointed as an employee of the Comilla Banking Corporation on the same terms and designation as before. On the 30th January 1948 he was put in the grade of Rs. 50—5—80—6—110—7½—E.B. 7½—170. It is said that he was placed in a lower position than he was entitled to, but the Banks' case is that he was given increments till 1946, that in that year there was a settlement under which there was no provision for any special grade, that thereunder he drew an extra increment of Rs. 21 and extra dearness allowance of Rs. 4 and thus accepted the new grade; that again in 1947 there was a settlement under which an Assistant was given a minimum increment of Rs. 5 pending his being placed in his proper grade under the settlement and that the said increment was duly accepted by him as also the further increment of Rs. 2-8-0 according to his grade it is further stated that in compliance with the 1947 settlement his case was duly considered and that he was notified in January 1948 that his grade would be Rs. 50—170. Thereupon he submitted an appeal to the Chief Manager who rejected the appeal.

*Kumud Bandhu Chatterjee.*—He was a ledger keeper and his duties were to post entries in the ledger. He was arrested on 1st March 1949 and although discharged on 20th July 1949, for reasons similar to those in the previous cases his reinstatement was refused by the Bank. The Bank's case is that a letter purporting to have been written by Major Chadha on 9th February 1949 regarding the withdrawal of a sum of Rs. 4,000, which led to the detection of the fraud cases, was typed by him on the Bank's typewriter, that he came to the office at 8-30 A.M. and after he had typed the letter he demanded the ledger book from the Jamadar, although the Bank was not open to transact business. The Bank, therefore, suspected his complicity with the other three people mentioned above.

In all the above three cases we must presume that the Bank produced all the available evidence before the police during the investigation of the cases; but after such investigation had failed to confirm its suspicion it proceeded to deal with the three men concerned without the assistance of the conclusions arrived at by the police. All three of them knew full well the grounds of the Banks' suspicions and must have stated their defences during the investigation. The question now arises, what order we should make in regard to these persons. It is not the case of any one of the men that the Bank had any grduge or grievance against him prior to the suspicions having been aroused against them for complicity in the offences. As the Bank entertained reasonable suspicions against these people, it would not be in a position to trust them any more in connection with any work if they are ordered to be reinstated, and in the absence of such trust they would feel that they were not being properly treated by the Bank and would be unlikely to take proper interest in any work they might be entrusted with. But we are of opinion that the circumstances of these cases were such as to justify the Bank's action in terminating their services. The Bank, in its own interest and that of its constituents, is bound to see that its transactions with the public are not unnecessarily endangered by the entertainment on its staff of persons whom it is unable to trust. We, therefore, make no order in these cases.

VIII. *Lloyds Bank, Limited—*

The case of alleged victimization are 62 in number, including 40 cases of dismissals made on the 26th October 1948, eleven cases in which the employees were forced to retire and eleven cases in which the employees concerned were criminally prosecuted and convicted under section 26 of the Industrial Disputes Act. Mr. M. M. Sen who appeared for all these men has not pressed the eleven cases of forced retirement and the eleven cases of dismissal on conviction. The circumstances in which 40 employees were dismissed by the Bank have to be set out in some detail and are as follows.

On the 17th January 1948 the Government of West Bengal referred certain industrial disputes which had arisen between the Bank and the clerical and subordinate staff to a Tribunal and the proceedings of the said Tribunal were pending at the date on which the 40 men were dismissed. The employees of the Central Bank of India were dissatisfied with the manner in which that Bank had given effect to an Award which had been made on a dispute between it and its employees, and considering that the Bank was not implementing the Award the said employees went on strike. On the morning of the 16th August 1948 the Secretary of the Lloyds Bank Indian Staff Association (Calcutta Branches) met the acting Branch Manager of the Bank's Branch at Netaji Subhas Road and intimated to him the decision of his Association to resort to a strike in

sympathy with the Central Bank of India employees to be commenced on the 17th August 1948. On the 15th August the Government of West Bengal had issued a press communique in which they stated that they had learnt with regret that attempts were being made to stage a sympathetic strike on the 17th August of all the Bank employees and that such action would be in furtherance of an illegal strike and, therefore, would also be illegal. Government hoped that any such illegal and anti-social action would be avoided. On the 16th August the Bank issued an office notice to its staff drawing attention to the Government's communique and pointing out that the staff had no concern with the dispute between the Central Bank of India and its employees. The notice concluded with these words.

> "The Management regret the necessity of again having to bring to the notice of the Staff that if any member of the staff absents himself without permission or without good or sufficient reason, he will not be paid for the day or days on which he absents himself, and that by reason of his so absenting himself he is liable to be treated as having wrongfully rescinded his contract, in other words as having voluntarily terminated his services with the Bank."

On the same day the Association issued a notice to all its members in which it was stated, "As the Bank Authorities have threatened the staff individually to deduct one day's pay for 17-8-1948 the Association hereby direct each and every member of the staff not to handle on 18-8-48 any work which work will be accumulating on 17th August 1948". On the 17th August all the members of the staff went on strike. A similar strike was also observed by the employees of the other Banks in Calcutta, including employees of the Reserve Bank.

On the 18th August the Manager of the Calcutta Branch issued a notice to the employees who had absented themselves on the 17th August stating that they had committed a breach of the terms of their terms of service and saying, "The Bank does not condone that absence and fully reserves its right to take disciplinary action after making such enquiries as it deems necessary. In respect of those employees who are not dismissed, a note of this illegal absence will be made in their service records and they will not receive any salary or emoluments for the day on which they were absent". The Bank authorities also addressed letters individually to the members of the staff calling upon them to show cause in writing on or before the 25th August why they "should not be dismissed, discharged or otherwise punished for having—

(*a*) committed a branch of your terms of service with the Bank by your absence without permission on the 17th instant;

(*b*) participated in an illegal strike;

(*c*) instigated or incited other employees to take part in an illegal strike;

(*d*) acted otherwise in furtherance of an illegal strike."

In reply the employees said that each of them had acted in obedience to the direction of the Association and as such they denied the charges levelled against them. On the 19th October 1948 a complaint was lodged in the Court of the Chief Presidency Magistrate against 11 members of the staff for going on an illegal strike and inciting others to do so, under section 26 and section 27 of the Industrial Disputes Act, 1947, and they were suspended. This trial resulted in the conviction of those 11 persons for the offence of going on an illegal strike, and the convictions were afterwards upheld by the High Court. One the 19th October the Working Committee of the Association passed a resolution to the

effect that unless the criminal prosecutions and the suspension orders were withdrawn by the management at 10-30 A.M. on the 20th October 1948 the members of the staff would cease to perform their normal duties after the expiry of the period. A copy of the resolution was sent to the Manager who issued a notice on the same day warning the members of the staff that if they refused to perform their normal duties they would be participating in a strike and would thereby render themselves liable to a criminal prosecution, and or to such other action as the Bank might be advisel. The management also drew attention of the members of the staff to the fact that the prosecutions of certain members of the staff had been authorised by the Government of West Bengal and said that any attempt to compel the withdrawal of such proceedings would be regarded as a subversive movement. The employees attended the Bank on the 20th October but participated in a sit-down strike. The General Manager (Eastern Branches) on that day issued a notice to the members of the staff stating that only those members of the staff who undertook to carry out the normal duties would be allowed admission to the Bank premises with effect from the next day, *i.e.*, the 21st, and that any employee who failed to give such undertaking and/or to perform his normal duties would be liable to summary dismissal. On the same day there was a discussion between the 'parties and the Labour Minister and officials of the Labour Department and the Bank made the following offer: "If the strike is called off with immediate effect the Bank will take no action whatsoever as regards the strike of to-day, the 20th October 1948. Regarding suspension, the persons already suspended will remain suspended." On the 21st October the members of the staff attended their offices and some of them gave an undertaking to carry out their normal duties verbally, that but the majority gave no such undertaking and again resorted to a pen down or sit-down strike. On the same day a notice was given by the General Manager material parts of which are as follows:

"Having regard to this branch of undertaking the Management considered it necessary to call upon members of the staff who continued such strike to-day to sign a written declaration to the effect that they would perform their duties loyally and conscientiously and would not participate further in the strike. Passes have been issued to those members of the staff who have signed such declaration as well as to members of the staff who have not taken part in the strike and admission to the Bank to-morrow will only be granted to persons who are in possession passes.

* * * * * * * *

"Having regard to the fact that the majority of the members of the staff failed to honour the verbal undertaking given by them this morning, the Management regret it is necessary to warn the staff that they will have no alternative but to summarily dismiss any member who signs the declaration referred to above but who continues to participate in the pen-down strike after the date of this notice".

On the 22nd October the General Secretary of the Association sent a letter to the Manager of the branch at Netaji Subhash Road stating that the general staff would resume their normal duties on that day. Accordingly, the employees attended their office on that day, but the Manager issued an office notice on the same day stating that in order to bring up-to-date the arrears of work because of the pen-down strike on the 20th and 21st October the staff would be required to work additional hours on Saturday as well as the whole of the next week, no remuneration, *i.e.*, either tea money or overtime, being payable for such additional

work. On Saturday the 23rd October also the staff attended office but refused to work overtime. According to a press communique issued by the Government of West Bengal the Bank authorities agreed to take no action as regards the strikes of 20th and the 21st October if the strike was called off immediately and the staff resumed normal work on the 22nd October, that this was conditional on all members of the staff agreeing, if required by the Bank, to work on Saturday afternoon and Sunday, *i.e.*, the 23rd and the 24th October to bring up the arrears of work caused by the 2 days' strike, or alternatively instead of Sunday during the evenings after normal office hours, of the following week; and that the Secretary of the Association agreed to consider the offer and later on the same night telephoned to the Joint Secretary to the Labour Department to say that the Association had agreed to the terms of the settlement and would resume work the next day.

On Monday the 25th October 1948 the Bank authorities issued notices to the members of the staff stating that by their gross misconduct (*a*) in participating in a strike on the 20th and 21st October and (*b*) by refusing to obey orders on the 23rd October they had rendered themselves liable to summary dismissal and that such action would be taken unless (*a*) each of them signed and abided by declaration of loyalty as furnished with the letter (reproduced below) and (*b*) each of them agreed to work overtime and perform such overtime work as might be necessary in the opinion of the management to bring up-to-date the arrears of work that had accumulated as a result of the strike above referred to. It was further notified that as the workmen had refused overtime on the 23rd October the offer previously made to pay their salary for the 20th and the 21st October was withdrawn, and that in the event of their failing to comply with the terms of either or both of the above-mentioned conditions each of them would be summarily dismissed without further notice. Lastly, it was stated in the notice that admission to the Bank on the next day would be contingent on presentation of either a signed loyalty declaration or, in the case of such employees as had already demonstrated their loyalty, passes which had been issued to them. The undertaking that each member of the staff was called upon to sign was in these words :

> "(1) I will at all times discharge my duties as an employee of the Bank loyally and conscientiously.
> (2) I will at all times be regular and punctual in my attendance at the Bank and will carry out all orders given to me by my superiors.
> (3) I will at all times duly abide by all rules of the Bank presently in force or which may be framed in future.
> (4) I will not henceforth participate in any illegal strike.
> I make this undertaking fully understanding that any breach of the terms hereof will render me liable to disciplinary action which may amount to summary dismissal".

None of the employees signed this so-called declaration of loyalty.

On the next day, the 26th October 1948, the members of the staff were given individual notices of dismissal and an advertisement was published inviting applications for the vacancies that had occurred. The advertisement stated that 'applications for employment would be entertained from ex-employees of the Banks and preference would be given to such applications, although no undertaking as to re-engagement could be given". On the 29th October 1948 the President of the Lloyds Banks Indian Staff Association (Calcutta Branches) sent a letter to the Management of the Bank referring to the settlement which

had been arrived at the intervention of the Minister of the Labour Department on the 20th October and pointing out that the members of the staff had called off strike accordingly and resumed their work on the 22nd October and that there was no term in the settlement that the extra time that the employees might be required to work would be dictated by the Bank. He further pointed out that on Monday the 25th October the clerical staff had made up more than three quarters of the arrears and would have finished the balance within a short time, so that the conduct of the Bank authorities in issuing a notice on the 22nd October regarding the extra hours in which the staff was to work and requiring the employees to sign the bond was altogether unjustified and arbitrary. It was also stated that the Bank had resorted to an unjustified lock-out which should be withdrawn immediately. On the 30th October 1948 the General Manager (Eastern Branches) sent a copy of this letter to the Labour Commissioner, West Bengal, stating that the statements that the arrears of work had already been made up to a considerable extent and that it was not within the Bank's province to decide when extra time should be worked, were not in accordance with facts. The Bank denied that there had been a lockout as all were free to enter the Bank premises on the 26th provided they signed the loyalty declaration and abided by the terms thereof. On the 3rd November the management began to interview the new applicants for the vacancies, some of whom were ex-employees, who numbered 474. The Bank re-employed 434 out of the said ex-employees, and the present grievance is with respect to the remaining 40 men.

Whatever differences existed between the parties up to the 21st October were settled by the settlement arrived at the intervention of the Labour Minister of the Government of West Bengal on the evening of the 21st October. It is a pity that the terms of the said settlement were not at once reduced to writing and signed by the parties. According to the Association the settlement was arrived at in the following terms :

"(*a*) that the Bank will not take any step against any of the staff (other than those against whom criminal proceedings has been started) for any act done by them.

(*b*) That the employees who had taken part in the pen-down strike will be paid their salaries for those 2 days.

(*c*) That the employees would make up the arrears of work, which had accumulated during the pen-down strike, by working extra hours if necessary without remuneration.

(*d*) That the employees would not be required to sign any declaration or undertaking.

(*e*) That the employees will call off the pen-down strike".

According to the Bank at the said meeting the Bank Manager agreed not to take any steps against the members of the staff (other than those who had been criminally prosecuted on the strike being called off immediately subject to the further condition of the "members of the staff agreeing, if required by the Bank, to work on Saturday afternoon and on Sunday the 24th October to bring the arrears of work caused by the two days strike; or alternatively instead of Sunday, during the evenings after normal office hours of the following week". This additional condition also appears in the account of the negotiations to be found in the press note issued by the Government of West Bengal at the time, which adds, "A copy of this assurance given by Mr. Parker (General Manager

of the Bank) was handed over to Sri Provat Kar, Secretary of the Staff Association, who said that the staff would consider the offer that night. Later that night Sj. Kar 'phoned the Joint Secretary, Labour Department, to say that the Association had agreed to the terms of the settlement and would resume work next day". The staff resumed normal duties on the 22nd October. On that day the management issued an office notice to the effect that in order to bring up-to-date the arrears caused by the pen-down strike the members of the staff would be required to work additional hours on the following dates :

| | |
|---|---|
| Saturday, 23rd October .. .. .. | up to 5 p.m. |
| Monday, 25th October to Friday, 29th October both days inclusive .. | up to 7 p.m. |

The Association has commented on this notice as follows :—

"The arrears in work for two days pen-down strike was very little and it was not necessary for the employees to work so many extra hours for clearing the arrears. In fact the employees on the 22nd October completed nearly 80 per cent of the arrears of work as in a Banking institution it is impracticable to perform day's normal duties without having completed the previous days work because all the books in a Banking institution are posted in a date order and balanced daily. The above notice was served as a punitive measure in spite of the aforesaid agreement as it will be seen that these extra 13 hours will compensate 13 hours lost during the pen-down strike. The employees resented this as it was clear that the intention of the notice was to force employees to perform the extra work in connection with the annual closing which was scheduled to take place on the 31st October without paying any extra remuneration as a punishment for these two days pen-down strike under the grab of implementing the terms of the agreement." On the 29th October the President of the Association wrote a letter to the Manager of the Bank in which it was stated that there had been no term in the settlement that the extra time that the employees might be required to work would be dictated by the Bank, and that by Monday (the 25th October) the staff had made up more than three quarters of the arrears. It is, however, possible to take the view that both the parties acted honestly, the Bank authorities being anxious that the arrears should be finished by the end of the next week and being of opinion that they had the authority to prescribe what the extra hours should be, and the members of the Association feeling that this was an unjust imposition as the clearing of arrears might safely have been left to the members of the staff themselves. As a consequence, the workmen refused to do any overtime work on Saturday the 23rd October. This seems to have annoyed the authorities who on the following Monday, the 25th October, issued notices to the members of the staff saying that by participating in the strike of the 20th and the 21st (which was to have been ignored under the settlement) and by refusing to obey the orders passed on the 23rd instant (probably the orders as to overtime work made on the 22nd October are meant) each member had made himself liable to summary dismissal. Such dismissal was threatened unless the employees forthwith signed a "declaration of loyalty" and strictly abided by the terms thereof and also agreed to perform such overtime work as might be necessary to bring up-to-date the arrears of work resulting from the strike. Thirdly the authorities withdrew the offer previously made to pay their salary for the 20th and the 21st October. Fourthly, it was stated in the notice that if any employee failed to sign the declaration of loyalty or to agree to work overtime as required he would be summarily

dismissed without further notice. Lastly, it was intimated that the admission to the Bank on the next day would be contingent on presentation either of a signed loyalty declaration or of a pass already issued to an employee. The effect of this notice must have been provocative of a great deal of annoyance and resentment on the part of the employees. In the first place, it was stated that unless, the terms now presented were compiled with an employee "would be summarily dismissed without further notice." It was not even stated that they would be liable to be summarily dismissed or that any objections they might have to the said conditions would be considered before such drastic action would be taken for the employees might easily have very strong objections to the terms of the undertaking they were called upon to sign. The terms of the said undertaking have already been set out above. The undertakings "will carry out all orders given to me by my superiors" and "I will at all times duly abide by all rules of the Bank presently in force or which may be framed in future" are so wide in their connotation and significance that they might legitimately arouse the fear in the minds of the members of the Association that these undertakings, if signed, would enable the Bank in future to order that members should sever their connection with the Association or should be summarily dismissed in case they made any demand or took any action which was disliked by the authorities. This seems to us to be the main reason why not a single member of the staff signed the undertaking. It will, again, be seen that the announcement that the admission to the Bank on the next day would be contingent on the presentation of a signed loyalty declaration or a pass amounted to a lock-out of such of the employees as did not sign the declaration or possessed passes. Besides, the statement that the authorities had withdrawn the offer made previously under the settlement to pay the salaries for the 20th and the 21st October was, no doubt, regarded as unjustifiable and as a going back on a settlement validly and properly made. In any case, as already pointed out there were good reasons why the workmen did not agree to give the undertaking required by the authorities: but they were told beforehand without a semblance of any realization that there could be any objection to the undertaking being given, that if the conditions sought to be imposed by the Bank were not complied with the employees would be summarily dismissed without any notice. Accordingly on the 25th all the employees of the two branches of the Bank involved in the dispute, *viz.*, those situated at Chowranghee and at Netaji Subhas Road, were dismissed from the service of the Bank.

It also seems to us that the prosecutions launched against 11 of the strikers was a drastic step, for it has been stated and not denied that though similar strikes occurred in other Banks on the 17th October, including the Reserve Bank, no such prosecution was launched by any of those Banks and the utmost punishment that was inflicted in such cases was to cut the pay of the strikers in respect of the day of the strike. It seems that it was the drastic nature of the step taken in prosecuting 11 employees that was the cause of the pen-down strike of the 20th October. As the matter had gone to a criminal court the workmen were probably not justified in asking for the immediate withdrawal of the prosecutions which had been made at the instance of the provincial Government although it was not beyond the capacity of the Bank to discover that the step taken by it had been too drastic as compared with the action taken by the other Banks and to represent to the provincial Government that they did not desire that the prosecutions should be proceeded with. In our opinion, the total effect of (*a*) the prosecutions, (*b*) the lock-outs of the 21st and the 26th October, (*c*) the requirement to sign the declaration of

loyalty, (*d*) the withdrawal of the offer to pay the salary for the 20th and the 21st October, (*e*) the threats of summary dismissal held out in more than one of the notices, and (*f*) the Bank authorities' refusal to negotiate with the Association (the negotiations were carried on triangulary through the Labour Department of the provincial Government), if not (*g*) the order as to over-time work also, was unduly provocative. The initial strike of the 17th August might have been illegal as held by the Courts, but the Bank was at more than one stages prepared to condone it except in the case of those who had been convicted. On the other hand, it must also be said that in certain matters, for instance, in asking that the prosecutions should be immediately with-drawn and the pen-down strikes the members of the Association need not, one might also say that they should not, have adopted the attitude which they adopted from time to time. But on the whole it seems to us that the conduct of the Bank authorities, when viewed in its proper perspective, was unduly harsh and drastic, and it is our considered opinion that employers who are capable of such conduct do not promote the best interests of the industry. The promotion of discipline among the employees is no doubt very desirable and necessary, but it should not be sought to be achieved by unduly harsh measures or an unnecessary show or exercise of power. In the interests of peace and harmony between the employers and the employees it seems to us that the bitterness and sufferings caused by the happenings of October 1948, should be now removed as far as possible. The whole thing originated in the strike of the 17th August, regarding which the Chief Presidency Magistrate has taken a lenient view, for he has imposed a fine of only Rs. 25 on each of the accused; whereas the 40 employees now under consideration, though they have not been prosecuted, have had to undergo a lengthy process of unsympathetic and provocative treatment at the hands of their employers, culminating in their dismissal. We are unable fully to approve of the conduct either of the Bank or of the employees concerned in the matter, and we consider that it would be equitable if the 40 men are deprived of a part of their salary and reinstated subject to such a condition. We, accordingly, direct that the Bank shall reinstate them within one month of the date with effect from which this Award becomes operative and pay them their arrears of pay and allowances for the six months prior to such reinstatement.

K. C. SEN,
*Chairman.*

J. N. MAJUMDAR,
*Member.*

CAMP, CALCUTTA :
*5th January 1950.*

---

N. C. KUPPUSWAMI, *Under Secy.*

(Vide *Gazette of India*, Part I—Section I, dated January 28, 1950, pp. 136-145).